OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
for
British Columbia

BUDGET SUBMISSION

Fiscal Years 2005-2006 through
2007-2008

Presented to the Select Standing Committee on Finance and Government Services, Legislative Assembly of British Columbia

November 9, 2004

Copy at: http://www.oipc.bc.ca/publications/budgets&serviceplans/2005-08budgetprop/.pdf

INTRODUCTION

This budget proposal to the Select Standing Committee on Finance and Government Services of the Legislative Assembly (Committee) by the Office of the Information and Privacy Commissioner (OIPC) is for the fiscal years 2005-2006 through 2007-2008.

This proposal asks the Committee to increase the OIPC's budget modestly in each of the next three fiscal years in order to cover ordinary-course salary and benefits increases.

While the biggest portion of the proposal is for our ongoing responsibilities under the Freedom of Information and Protection of Privacy Act (FOIPPA), the proposal includes ongoing funding for our new responsibilities under the *Personal Information Protection Act* (PIPA), which came into force on January 1, 2004. The Committee last year recommended funding for the OIPC's new oversight responsibilities under this new law.

Our workload has increased significantly over last year. Between January 1 and October 31, we experienced a 46% increase in the number of new files opened overall, largely due to our new workload under PIPA. Further, our work under FOIPPA has been growing—the first ten months of this year saw a 12.5% increase in new files under that Act. These figures include our work on access to information appeals and complaints, privacy complaints, policy and legislation consultations, public education and speaking activities, work creating support tools, media work and so on. They reflect the broad scope of our work and measure its extent better than a narrow focus on the number of formal appeals and complaints.

The OIPC has a staff of 18 (for both FOIPPA and PIPA work) as compared to 23 (for FOIPPA work alone) before budget reductions began in 2002-2003. In light of the ongoing increases in our workload, I will carefully monitor our ability to continue to do our work in a timely and effective fashion. I am not at this time seeking added funding to address the increased demands on our services, but, consistent with the Committee's direction in past reports, will seek added funding if necessary.

Earlier this year the Committee recommended supplementary funding for the current fiscal year (2004-2005) in the amount of $75,000 for our work on USA Patriot Act issues. My nervousness around what I considered at the time to be a modest request for the USA Patriot Act project was well founded, since the actual cost of producing the report has turned out to be just under $155,000.

This is a reasonable amount considering the scope of the report, the amount of work we did in a short time and the complex legal issues requiring extensive research and legal advice. Although the final cost exceeds the Committee's recommended funding for the project, I am not at this time asking the Committee for a further recommendation in this regard. This is because it may be possible to fund the entire cost using the $75,000 that the Committee recommended and by re-allocating amounts within our existing budget for this year. A clearer picture will emerge closer to the end of this fiscal year,

likely by early February. At that time, I will, if necessary, ask the Committee to recommend further supplementary funding to cover the entire amount.

At the same time the Committee recommended added funding for our USA Patriot Act work, it recommended $40,000 for a specific judicial review proceeding against the OIPC. This is a complex matter, comprising nine separate petitions against the OIPC and involving an interim hearing and ruling. The hearing of that matter has been held and we are awaiting the judge's decision. Legal fees to get us this far amount to $56,000, including disbursements and taxes. Again, although the final cost exceeds the Committee's recommended funding for this litigation, I am not at this time asking for a further recommendation to fund the excess. I will, again, monitor the situation and decide later in the fiscal year whether I need to ask the Committee to recommend further supplementary funding to cover the entire cost of the litigation.

November 9, 2004

ORIGINAL SIGNED BY

David Loukidelis
Information and Privacy Commissioner for British Columbia

A. OVERVIEW OF CORE BUSINESS AREAS

The following section outlines for the Committee's information the OIPC's three core businesses.

1. Mandate under the Freedom of Information and Protection of Privacy Act

Under FOIPPA, the OIPC is responsible for investigating complaints that a public body has refused access to a record or that a public body has inappropriately collected, used or disclosed personal information. The OIPC is also responsible for commenting on the access and privacy implications of proposed legislative schemes or programs, new technologies or data linkages, educating the public about their access and privacy rights, and engaging in research into anything affecting those access and privacy rights. The OIPC's workload has risen in recent years. In addition to concerns about per-employee caseloads, we continue to be concerned about our ability to adequately deliver on its explicit statutory mandate to provide arm's-length expert advice and support to public bodies across British Columbia. A well-functioning access and privacy system is indispensable to good government. The policy and program support that we provide to ministries, Crown corporations, health authorities and local public bodies assists them in pro-actively and cost-effectively meeting their statutory obligations and adopting best practices. The services we provide under FOIPPA are also crucial to ensuring that public bodies operate in a transparent and accountable fashion and that public bodies respect the privacy of the citizens they serve.

The contribution of the OIPC's quasi-judicial services to the health of our democratic system of government and to the protection of individual rights cannot readily be measured. There is no doubt, however, that our mandate and functions are crucial to restraining and illuminating the activities of government and to empowering citizens, both of which are fundamental to healthy and well-functioning modern democracy.

For the period ending October 31, the OIPC this year has opened 1,865 files in total, compared to 1,658 for the same period last year. This is a 12.5% increase year-over-year in the OIPC's new caseload under FOIPPA. During the period ending October 31, the OIPC closed 1,745 files, compared to 1,740 for the same period last year. This latter number raises the concern that the OIPC may be having trouble keeping up with the increased workload under FOIPPA, not to mention under PIPA.

2. Mandate under the Personal Information Protection Act

PIPA came into force on January 1, 2004. PIPA governs the collection, use and disclosure of personal information by the entire for-profit and not-for-profit sector in British Columbia. The OIPC is responsible for overseeing compliance with that Act, which gives the OIPC the power to investigate complaints, hold formal hearings and dispose of complaints by way of binding order. At least 380,000 organizations in British Columbia are covered by the legislation, including all businesses, trade unions,

societies, co-operatives, independent schools, charitable organizations and religious organizations.

We expect that our workload will continue to increase as the public becomes more aware of their rights under the law. As at October 31, the OIPC had 160 open PIPA files assigned to Portfolio Officers and 373 open PIPA files assigned to Intake Officers, for a total of 533 new files in ten months. Between January 1 and October 31, the OIPC opened and closed a further 499 files under PIPA. This workload is significant in light of our policy of referring would-be complainants back to the relevant organizations so they can attempt to resolve the matter directly, before we will open a file.

Our PIPA activities have been even more extensive than these numbers indicate. So far this year, for example, the OIPC has published a number of tools to pro-actively educate organizations and citizens about PIPA and assist with PIPA compliance. Our website has been revamped to offer these new resources to organizations and citizens, which include:

- new OIPC policies and procedures for complaints to the OIPC,
- overview of organizations' responsibilities under PIPA,
- detailed guide to PIPA for businesses and organizations,
- tips for organizations in responding to complaints under PIPA,
- guidelines for organizations in creating the privacy policy PIPA requires them to adopt,
- overview of citizens' rights and responsibilities under PIPA,
- citizens' guide to effective resolution of disputes with organizations,
- guidance on how to complain to an organization, how to request access to one's own personal information, how to correct mistakes in one's own personal information and how to complain to the OIPC.

We have also drafted employment privacy guidelines and are conducting an extensive consultation process with businesses and labour groups before publishing the final document.

As for other public education efforts, the Commissioner, the Director of Policy & Compliance and other OIPC staff speak on many occasions at conferences and to groups about PIPA.

The OIPC's request for additional funding for PIPA activities indicated that, if and when increased workload required it, the OIPC would seek further funding to meet its obligations. There is every reason to believe that, as the public and organizations become more aware of PIPA, our workload will increase in coming years. The PIPA workload this year has been significant but within our present means. Additional funding will be sought if the Commissioner considers it is necessary to do so.

3. Mandate under the Lobbyists Registration Act

In addition to other responsibilities, the Commissioner is also the Registrar of Lobbyists under the *Lobbyists Registration Act* ("LRA"). The LRA's purpose is to require registration as a lobbyist of anyone who attempts to communicate with a public officer in an attempt to influence the development of a legislative proposal, the introduction of a Bill, the awarding of a contract, the amendment of a government policy or program, or the arranging of a meeting with a pubic office holder. This information is made available to the public on the OIPC's website.

Base funding for these responsibilities was transferred to the OIPC from the Ministry of Attorney General during the 2003-2004 fiscal year. The Committee last year acknowledged the OIPC's activities under the LRA by recommending funding to cover the OIPC's operations for the present fiscal year in the amount of $97,000.

Details of the LRA funding requests for fiscal years 2006-2008 are found in the Resource Summary table of this submission.

B. KEY FEATURES OF FUNDING PROPOSALS

The following discussion outlines key features of the funding proposals for the current and three following fiscal years. We will first mention two factors that apply to all years.

First, in each year an increase in the capital budget is requested to a total of $30,000 per year to support routine replacement of computer equipment as it reaches the end of its normal service life. The capital budget for the current fiscal year is $20,000.

Second, each year's budget reflects the continuation of shared office space with the Office of the Ombudsman and the Office of the Police Complaint Commissioner, and reflects ongoing provision to the OIPC by the Office of the Ombudsman of payroll, financial and information technology systems support through our shared services agreement.

1. Current Fiscal Year

The Committee's December 12, 2003 report set the OIPC's budget at $2,133,000 for 2004-2005 and a similar amount for planning purposes for 2006-2007.

On May 7, 2004, the Commissioner asked the Committee to authorize supplementary funding for litigation proceedings relating to a judicial review of an OIPC order under FOIPPA and to support the preparation of a report on issues raised by the *USA Patriot Act*. The Committee responded, in its May 19, 2004 report, by recommending to the Legislature that the Commissioner be granted supplementary funding of $40,000 to pay for expenses associated with the judicial review and $75,000 for expenses associated with the *USA Patriot Act* review. It is important to note here that this added funding

must still be authorized through supplementary spending estimates in the spring session of the Legislature if a deficit budget is to be avoided for the present fiscal year. As indicated in the Commissioner's introduction, it may also be necessary to seek further supplementary funding for these matters.

An added impact on the OIPC's budget flows from the final report of the 2004 British Columbia Judges Compensation Commission, tabled in the Legislature on October 7, 2004.[1] Salaries of officers of the Legislature are tied by statute to the salary set for the Chief Judge of the Provincial Court. If the compensation report is implemented by the government, the impact—which is retroactive to January 2004—would be an estimated $20,000 (inclusive of benefits) for the present fiscal year. We cannot say whether the government will accept the report's compensation recommendations in whole or in part, but prudence dictates that we request funding in the amount we estimate will be needed to cover that contingency if it comes to pass.

2. Fiscal 2005-2006

The Committee's December 12, 2003 report set the OIPC's budget at $2,133,000 for 2005-2006, the same as 2004-2005.

Our budget request for 2005-06 is $2,230,000, which will allow the OIPC to maintain its current staffing level. The requested increase of $97,000 is to accommodate the increased salary for the Commissioner stemming from the above-noted judges compensation report, normal salary increments for other staff, an estimated increase in the benefits chargeback that the OIPC is required to pay from 23% to 24% and a known increase of $6,000 for building occupancy charges. Taken together, these changes add $97,000 to the OIPC's needs. No increase is sought to meet the anticipated effects of ordinary price inflation in other areas.

3. Fiscal 2006-2007

In its December 12, 2003 report, the Committee recommended that future committees consider reviewing the budget for 2006-2007 and we assume the Committee is open to doing so for years following 2006-2007.

The proposed budget of $2,331,000 for fiscal 2006-2007 provides for the increase in the Commissioner's salary, other staff salary adjustments based on an assumed 3% increase, and other minor increases in operating costs to meet the anticipated effects of ordinary price inflation.

4. Fiscal 2007-2008

The proposed budget of $2,374,000 for fiscal 2007-2008 provides for the increase in the Commissioner's salary, other salary adjustments based on an assumed 2% increase,

[1] *http://www.ag.gov.bc.ca/public/judges-compensation/FinalReport.pdf*

and other minor increases in operating costs to meet the anticipated effects of ordinary price inflation.

Resource Summary — Office of the Information & Privacy Commissioner
This table provides a summary of the budget allocation by core business

Core Businesses	2004/05 Restated Estimates	2005/06 Estimates	2006/07 Plan	2007/08 Plan
Operating Expenses ($000)				
Public Sector Information & Privacy	$1,524	$1,583	$1,656	$1,687
Lobbyists Registration	$97	$97	$100	$100
Private Sector Privacy	$512	$550	$575	$587
TOTAL	$ 2,133	$2,230	$2,331	$2,374
Full-time Equivalents (FTE)				
Public Sector Information & Privacy	11.5	11.5	11.5	11.5
Lobbyists Registration	1.5	1.5	1.5	1.5
Private Sector Privacy	4	4	4	4
TOTAL	17	17	17	17
Capital Expenditures (Consolidated Revenue Fund) ($000)				
	$20	$30	$30	$30

Budget Details — Office of the Information and Privacy Commissioner
This table provides a detailed budget analysis by STOB (Standard Object of Budgeting)

STOB	DESCRIPTION	2004/05 Restated Estimates	2005/06 Estimates	Change	2006/07 Plan	2007/08 Plan
50	SALARIES	$ 1,092,000	$ 1,135,000	$ 43,000	$ 1,169,000	$ 1,193,000
51	SUPPLEMENTARY SALARY	$ 5,000	$ 5,000	$ -	$ 5,000	$ 5,000
52	EMPLOYEE BENEFITS	$ 292,000	$ 325,000	$ 33,000	$ 341,000	$ 348,000
54	OFFICER OF LEG.SALARY	$ 175,000	$ 190,000	$ 15,000	$ 222,000	$ 229,000
57	TRAVEL	$ 40,000	$ 40,000	$ -	$ 45,000	$ 45,000
59	CENTRAL MGM'T SERVICES	$ 39,000	$ 39,000	$	$ 39,000	$ 39,000
60	PROFESSIONAL SERVICES	$ 180,000	$ 180,000	$	$ 180,000	$ 180,000
63	INFO SYSTEMS - OPERATING	$ 65,000	$ 65,000	$	$ 65,000	$ 65,000
65	OFFICE & BUSINESS EXPENSES	$ 80,000	$ 70,000	$ (10,000)	$ 80,000	$ 80,000
67	INFO ADVERTISING & PUBLICATIONS	$ 20,000	$ 10,000	$ (10,000)	$ 10,000	$ 10,000
68	STATUTORY ADVERTISING & PUBLICATIONS	$ 7,000	$ 7,000	$	$ 7,000	$ 7,000
69	UTILITIES, MATERIALS, SUPPLIES	$ 13,000	$ 13,000	$	$ 13,000	$ 13,000
70	OPERATING EQPT & VEHICLES			$ -		
73	AMORTIZATION EXPENSE	$ 20,000	$ 30,000	$ 10,000	$ 30,000	$ 30,000
75	BUILDING OCCUPANCY	$ 120,000	$ 126,000	$ 6,000	$ 130,000	$ 135,000
88-90	RECOVERIES	$ (15,000)	$ (5,000)	$ 10,000	$ (5,000)	$ (5,000)
TOTAL		**$2,133,000.00**	**$ 2,230,000**	**$ 97,000**	**$ 2,331,000**	**$ 2,374,000**
	CAPITAL BUDGET					
Capital Information Systems & Furn. & Equip.		$20,000	$ 30,000	$ 10,000	$ 30,000	$ 30,000

OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
for
British Columbia

BY FAX

November 23, 2004

Mr. Bill Belsey, Chair
Select Standing Committee on Finance
and Government Services
Room 201 Parliament Buildings
Victoria BC V8V 1X4

Dear Mr. Belsey:

**Select Standing Committee on Finance and Government Services ("Committee")—
OIPC File No. 23266**

At the Committee's request, we have prepared revised budget figures for my office that do not provide for a potential salary increase for officers of the Legislature or any general salary award in future years for all staff. Accordingly, I enclose revised versions of the two tables found in my November 9, 2004 submission to the Committee. These tables reflect the approach requested.

I understand that the Committee has asked the Ombudsman to provide information to it concerning the impact of a salary adjustment for officers of the Legislature. My office would also, of course, face the same impact and I ask the Committee to accept the Ombudsman's response as mine as well.

It should also be noted that my office's budget submission has been made on the basis of an assumed benefits charge-back rate of 24% next fiscal year. We have in the last few days been told that the rate for the next fiscal year may be 25%. The impact on my office's budget of an increase in the benefits charge-back rate to 25% is $13,000 per year assuming no increases in my salary or other salaries. I therefore ask the Committee to recommend that our budget be increased by the appropriate amount to accommodate the extra funds required if government sets the benefits charge-back rate above 24%.

If you have any questions about the above or the enclosed revised budget figures, please do not hesitate to contact me or Lanny Hubbard (387-0177).

Yours truly,

ORIGINAL SIGNED BY

David Loukidelis
Information and Privacy Commissioner
for British Columbia

Enclosure

cc: Craig James, Clerk Assistant and Clerk of Committees

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Operating Expenses ($000)				
Public Sector Information & Privacy	$1,524	$1,568	$1,568	$1,568
Lobbyists Registration	$97	$97	$97	$97
Private Sector Privacy	$512	$546	$546	$546
TOTAL	$ 2,133	$2,211	$2,211	$2,211
Full-time Equivalents (FTE)				
Public Sector Information & Privacy	11.5	11.5	11.5	11.5
Lobbyists Registration	1.5	1.5	1.5	1.5
Private Sector Privacy	4	4	4	4
TOTAL	17	17	17	17
Capital Expenditures (Consolidated Revenue Fund) ($000)				
	$20	$30	$30	$30

Budget Details — Office of the Information and Privacy Commissioner

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50	SALARIES	$ 1,092,000	$ 1,135,000	$ 43,000	$ 1,135,000	$ 1,135,000
51	SUPPLEMENTARY SALARY	$ 5,000	$ 5,000	$	$ 5,000	$ 5,000
52	EMPLOYEE BENEFITS	$ 292,000	$ 321,000	$ 29,000	$ 321,000	$ 321,000
54	OFFICER OF LEG.SALARY	$ 175,000	$ 175,000	$	$ 175,000	$ 175,000
57	TRAVEL	$ 40,000	$ 40,000	$	$ 40,000	$ 40,000
59	CENTRAL MGM'T SERVICES	$ 39,000	$ 39,000	$	$ 39,000	$ 39,000
60	PROFESSIONAL SERVICES	$ 180,000	$ 180,000	$	$ 180,000	$ 180,000
63	INFO SYSTEMS - OPERATING	$ 65,000	$ 65,000	$	$ 65,000	$ 65,000
65	OFFICE & BUSINESS EXPENSES	$ 80,000	$ 70,000	$ (10,000)	$ 70,000	$ 70,000
67	INFO ADVERTISING & PUBLICATIONS	$ 20,000	$ 10,000	$ (10,000)	$ 10,000	$ 10,000
68	STATUTORY ADVERTISING & PUBLICATIONS	$ 7,000	$ 7,000	$	$ 7,000	$ 7,000
69	UTILITIES, MATERIALS, SUPPLIES	$ 13,000	$ 13,000	$	$ 13,000	$ 13,000
70	OPERATING EQPT & VEHICLES			$		
73	AMORTIZATION EXPENSE	$ 20,000	$ 30,000	$ 10,000	$ 30,000	$ 30,000
75	BUILDING OCCUPANCY	$ 120,000	$ 126,000	$ 6,000	$ 126,000	$ 126,000
88-90	RECOVERIES	$ (15,000)	$ (5,000)	$ 10,000	$ (5,000)	$ (5,000)
TOTAL		**$2,133,000.00**	**$ 2,211,000**	**$ 78,000**	**$ 2,211,000**	**$ 2,211,000**
	CAPITAL BUDGET					
Capital Information Systems & Furn. & Equip.		$20,000	$ 30,000	$ 10,000	$ 30,000	$ 30,000